



California Regional Water Quality Control Board San Diego Region



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<http://www.waterboards.ca.gov/sandiego>

July 14, 2009

Ms. Kimberly A. Thorner
General Manager
Olivenhain Municipal Water District
1966 Olivenhain Road
Encinitas, CA 92024

Certified Mail – Return Receipt Requested
7009 0820 0001 8455 6451
In reply refer to:
CIWQS No.: 368231: cmeans

**Subject: Notice of Violation No. R9-2009-0111
Failure to Comply with Clean Water Act Section 401 Certification
04C-120 for the 4S Ranch Pipeline North Project**

**Site Location: Unincorporated community of Rancho Santa Fe, approximately
1.3 miles north of Del Dios Highway and 6.5 miles east of
Interstate 5.**

Dear Ms. Thorner:

Enclosed please find Notice of Violation (NOV) No. R9-2009-0111 for alleged violations of Clean Water Act Section 401 Water Quality Certification 04C-120 Conditions B.2, B.3 and B.6. issued for the 4S Ranch Pipeline North Project in the unincorporated community of Rancho Santa Fe.

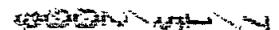
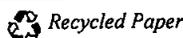
In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Christopher Means at (858) 637-5581 or cmeans@waterboards.ca.gov.

Respectfully,

David T. Barker, P.E.
Senior Water Resource Control Engineer
Surface Water Basins Branch

DTB:cc:cjm

California Environmental Protection Agency



**Ms. Kimberly Thorner
Olivenhain Municipal Water District
NOV No. R9-2009-0111**

- 2 -

July 14, 2009

Certification No.	04C-120
File Number	18-2004120
CIWQS Place ID	203263
Reg. Measure No.	368230
Violation No.	827656
	827659
	827662
NOV ID No.	368231

Enclosure: Notice of Violation R9-2009-0111

Cc via email: (w/encl.)

Mr. George Briest
Engineering Manager
Olivenhain Municipal Water District
1966 Olivenhain Road
Encinitas, CA 92024

Ms. Tamara Spear
California Department of Fish and Game
South Coast Region
4949 Viewridge Avenue
San Diego, CA 92123

Mr. Terrence Dean
U.S. Army Corps of Engineers
Regulatory Division
South Coast Branch, San Diego Section
6010 Hidden Valley Road, Ste. 105
Carlsbad, CA 92011

**California Regional Water Quality Control Board
San Diego Region**

IN THE MATTER OF: Ms. Kimberly A. Thorner Olivenhain Municipal Water District 1966 Olivenhain Road Encinitas, California 92024	NOTICE OF VIOLATION NO. R9-2009-0111 FAILURE TO COMPLY WITH CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION NO. 04C-120, FOR 4S RANCH PIPELINE NORTH PROJECT
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YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ALLEGED VIOLATIONS:

Failure to comply with Certification Condition B.2, B.3, and B.6 of Clean Water Act Section 401 Water Quality Certification 04C-120.

The Certification was issued by the California Regional Water Quality Control Board, San Diego Region (hereafter Regional Board) on December 6, 2004, and subsequently amended on July 7, 2006.

BASIS FOR ALLEGED VIOLATIONS:

Violation of Condition B.2

Condition B.2 requires that:

"OMWD shall submit an as-built mitigation site report (including topography maps and planting locations) to the SDRWQCB within 30 days of completion of mitigation site preparation and planting, describing as-built status of the mitigation project. If the site grading and planting are not completed within six weeks of each other, separate reports will be submitted describing those specific as-built conditions."

To date, Olivenhain Municipal Water District has failed to submit the required as-built mitigation report.

Violation of Condition B.3

Condition B.3 requires that:

"The construction of proposed mitigation shall be completed within the same calendar year as impacts occur, or at least no later than 9 months following the close of the calendar year in which impacts first occur (e.g., if impacts occur in June 2005, construction of mitigation for all impacts must be completed no later than September 2006). Delays in implementing mitigation shall result in an increased mitigation ratio by 2:1 acre for each acre of impact for each year, or part thereof, of delay."

To date, the Regional Board has not received the mitigation reports required by the CWA Section 401 Certification 04C-120, and at this time, is unable to determine if the required mitigation has been initiated or completed, or whether possible delays in mitigation warrant additional punitive mitigation ratios.

Violation of Condition B.6

Condition B.3 requires that:

"Mitigation monitoring reports shall be submitted annually until mitigation has been deemed successful. Monitoring reports shall be submitted no later than 30 days following the end of the monitoring period. Monitoring reports shall include, but not be limited to, the following:

- a) Names, qualifications, and affiliations of the persons contributing to the report;
- b) Tables presenting the raw data collected in the field as well as analyses of the physical and biological data;
- c) Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;
- d) Photodocumentation from established reference points;
- e) Survey report documenting boundaries of mitigation area; and
- f) Other items specified in the draft and final Conceptual Restoration Plan."

To date, the Regional Board has not received any mitigation monitoring reports.

The violations alleged in the enclosed Notice of Violation are serious and may result in further enforcement action against you, including the imposition of administrative civil liability of up to \$5,000 per day per violation pursuant to Water Code section 13350.



David T. Barker, P.E.
Senior Water Resource Control Engineer

July 14, 2009

COMPLETE THIS SECTION

Items 1, 2, and 3. Also complete Restricted Delivery if desired. Name and address on the reverse will return the card to you. Write on the back of the mailpiece, if space permits.

Delivered to:
 Kimberly A. Thorner
 Municipal Water District
 Olivenhain Road
 Encinitas, CA 92024-5676

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7009 0820 0001 7183 6541
 (service label)
 February 2004 7-14 Domestic Return Receipt *C. Means* 102595-02-M-1540

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Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$5.54	

Sent To *Ms. Kimberly A. Thorner*
 Street, Apt. No. or PO Box No. *1966 Olivenhain Road*
 City, State, ZIP+4 *Encinitas CA, 92024-5676*

PS Form 3800, August 2006 See Reverse for Instructions